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## PART II—Section 2

### Bills and Reports of Select Committees on Bills

#### HOUSE OF THE PEOPLE

The following Report of the Select Committee on the Bill to declare, in pursuance of clause (3) of article 286 of the Constitution, certain goods to be essential for the life of the community, was presented to House of the People on 18th July, 1952:—

#### MEMBERS OF THE SELECT COMMITTEE

Shri C. D. Deshmukh—*Chairman*.  
Shrimati B. Khongmen.  
Dr. Ram Subhag Singh.  
Shri Tulsidas Kilachand.  
Acharya Shriman Narayan Agarwal.  
Shri P. T. Chacko.  
Shri B. Das.  
Shri Gurmukh Singh Musafir.  
Col. B. H. Zaidi.  
Shri S. V. L. Narasimham.  
Shri S. V. Ramaswamy.  
Shri G. D. Somani.  
Shrimati Sucheta Kripalani.  
Shri Rajaram Giridharlal Dubey.  
Shri Keshava Deva Malaviya.  
Shri Arun Chandra Guha.  
Shri Liladhar Joshi.  
Shri Balwant Singh Mehta.  
Shri Dev Kanta Borooah.  
Shri Sarangadhar Das.

Shri Mahavir Tyagi.

Shri M. V. Krishnappa.

Dr. Shaukatulla Shah Ansari.

Shri N. R. M. Swamy.

#### REPORT OF THE SELECT COMMITTEE

The Select Committee to which the Bill to declare, in pursuance of clause (3) of Article 286 of the Constitution, certain goods to be essential for the life of the community was referred, have considered the Bill and I now submit this their Report, with the Bill as amended by the Committee annexed thereto.

The Schedule to the Bill is the most important part of the Bill and it is only in the Schedule that the Select Committee have recommended certain amendments. Certain existing items in the Schedule have been amended or rearranged and certain new items have been added. The Select Committee note as follows upon the changes proposed in the Schedule which are not formal or consequential.

[References to the items in this Report are to the items as amended by the Select Committee and references in brackets are to the items of the Scheduled as in the original Bill.]

*Item 2.*—In this item the Select Committee has included coconuts, edible tubers and vegetable seeds. Orchids have been excluded because the Select Committee was given to understand that there is an expanding business done in this commodity in the State of Assam. Sugar-cane has been omitted from item 7 and has been included in this item as being more appropriate. The Select Committee has also made a slight drafting alteration in order to make it clear that no medical preparation which may be made from any one or more of the articles mentioned in this item is included here.

*Items 4, 5 and 6.*—Items 4, 5 and 6 are new.

*Item 8 (original item 5).*—This item has been re-drafted so as to include all hand-loom cloth, cotton, silk or woollen. Coarse and medium cotton cloth, woven on power looms, has also been included. The expressions "coarse cloth" and "medium cloth" have been defined so that there may be no ambiguity about their meanings.

*Item 9 (original item 7).*—This item has been amplified to include certain additional articles.

*Item 10.*—This is a new item.

*Item 11 (original item 6).*—Manures and parts of agricultural machinery and implements have been included in this item.

*Item 12.*—This is a new item.

*Item 13 (original item 8).*—This item has been slightly amplified. Electrical energy has been omitted because it is doubtful whether the expression 'goods' in article 286(3) of the Constitution includes electricity, in view of the fact that in List II of the Seventh Schedule to the Constitution there is a separate entry (entry 54) relating to the consumption or sale of electricity, whereas the expression used in article 286(3) of the Constitution is "taxes on the sale or purchase of goods", an expression which finds its counterpart in entry 53.

*Items 15 and 16.*—These are new items.

2. The Bill was originally published in the *Gazette of India*, Part II, Section 2, dated the 24th May, 1952.

3. The Select Committee think that the Bill has not been so altered as to require circulation under rule 94(4) of the Rules of Procedure and Conduct of Business in the House of the People and they recommend that it be passed as now amended.

C. D. DESHMUKH,

*Chairman of the Select Committee.*

NEW DELHI;

The 18th July, 1952.

#### MINUTE OF DISSENT

We are sorry we are not able to agree with our colleagues in regard to the propriety of retaining the words "made after the commencement of this Act" in the Act as it may finally be adopted by Parliament.

2. The main purpose of enacting this measure is to introduce uniformity of legislation throughout the country in respect of the taxation of goods considered by Parliament to be essential for the life of the community in India as a whole. Different States have followed different policies in levying sale taxes on such commodities. Till the inauguration of the new Constitution they were legally within their power in doing so. But to our mind, the language of Article 286, clause 3 of the Constitution is not only absolutely unambiguous but peremptory. It appears to reflect clearly the intentions of those who framed the Constitution.

3. The addition of the words "made after the commencement of the Act" can have no other effect than to negative the very concept of uniformity and seem to be entirely uncalled for. It may be argued that if these words are not incorporated in the clause, all State legislation enacted prior to the passing of the Act and levying sales taxes on commodities enumerated in the schedule may stand in danger of being automatically declared to be null and void, and it may create new problems and difficulties. If this is so, it will only mean that some measures may have to be devised to prevent any sudden and serious dislocation in the financial structure of the States. We concede that it may have to be done. But the addition of the words in question far exceeds the limitations of what, after all, can only be a claim for some accommodation and adjustment.

4. Two points are, in our opinion, quite clear; firstly, that the policy of uniformity of taxation in this particular sphere, brought about by and flowing out of central control, can be taken to have been laid down in the Constitution by virtue of Article 286 and, secondly, that the Constitution does not contain any saving clause exempting pre-existing State legislation from the operation of Article 286. On the contrary, the language of Article 286, clause 3, appears so unconditional and decisive that the operation of the clause seems to be intended to take retrospective effect.

5. And, after all, if there is any doubt or ambiguity in regard to the interpretation of the sub-clause as it exists in the Constitution, the proper course is to have it interpreted by the highest Judicial authority *viz.* the

Supreme Court, and not allow it to be materially altered by an ordinary law of Parliament. We, therefore, definitely suggest that the words "made after the commencement of this Act" be deleted from clause 8 of the Essential Goods (Declaration and Regulation of Tax on sale or purchase) Bill, 1952.

TULSIDAS KILACHAND.

G. D. SOMANI.

NEW DELHI;

The 18th July, 1952

(AS AMENDED BY THE SELECT COMMITTEE)

(Words underlined indicate the amendments suggested by the Committee; asterisks indicate omissions).

BILL No. 29 OF 1952

*A Bill to declare in pursuance of clause (3) of article 286 of the Constitution certain goods to be essential for the life of the community.*

BE it enacted by Parliament as follows :—

1. **Short title.**—This Act may be called the Essential Goods (Declaration and Regulation of Tax on Sale or Purchase) Act, 1952.

2. **Declaration of certain goods to be essential for the life of the community.**—The goods specified in the Schedule are hereby declared to be essential for the life of the community.

3. **Regulation of tax on sale or purchase of essential goods.**—No law made after the commencement of this Act by the legislature of a State imposing, or authorising the imposition of, a tax on the sale or purchase of any goods declared by this Act to be essential for the life of the community shall have effect unless it has been reserved for the consideration of the President and has received his assent.

#### THE SCHEDULE

[See section 2.]

##### *Goods declared essential for the life of the community*

1. Cereals and pulses in all forms, including bread and flour, including atta, maida, suji and bran (except when any such article is sold in sealed containers).

2. Fresh and dried fruits, sugar-cane, coconuts, vegetables, edible tubers, vegetable and flower seeds, bulbs and plants, \* \* \* excluding orchids (except (i) any medicine prepared from any one or more of such articles; and (ii) when any such article is sold in sealed containers).

3. Fresh milk, whole or separate, and milk products, including butter, ghee, chana, khoa, but excluding sweetmeats.

4. Meat, fish and eggs (except when any such article is sold in sealed containers).

5. Edible oils, and oilseeds from which edible oils are extracted.

6. Gur.

7. Salt.

8. All cloth woven on hand-looms, coarse and medium cotton cloth made in mills or woven on power-looms.

*Explanation 1.*—“Coarse cloth” means any cloth in which the count of warp yarn employed (excluding the border) is below 17s. (whether single or folded).

*Explanation 2.*—“Medium cloth” means any cloth in which the count of warp yarn employed (excluding the border) is 17s. or finer but is less than 35s. (whether single or folded).

9. Raw cotton, including ginned and unginned cotton or kapas, \*\*\*\* cotton thread, cotton yarn, cotton seeds, jute seeds, raw jute, \* sun-hemp, and mesta.

10. Hides and skins.

11. Fertilisers and manures, agricultural machinery and implements, including parts of such machinery and implements.

12. Cattle feeds.

13. Coal including coke and other derivatives, petroleum and petroleum products, including kerosene and motor spirit \* \* \*.

14. Iron and steel.

15. Books exercise books and periodical journals.

16. Antibiotics and sulphur drugs.

The following Report of the Select Committee on the Bill to regulate the profession of notaries, was presented to House of the People on 18th July, 1952:—

#### MEMBERS OF THE SELECT COMMITTEE

Shri Hari Vinayak Pataskar—*Chairman.*

Shri N. C. Chatterjee.

Shri Kamal Kumar Basu.

Dr. A. Krishnaswami.

Shri Rayasam Seshagiri Rao.

Shri B. S. Murthy.

Shri Munishwar Dutt Upadhyay.

Shri Palwant Nagesh Datar.

Shri Nemi Chandra Kasliwal.

Shri Narendra P. Nathwani.

Shri Chimanlal Chakubhai Shah.

Shri Nageshwar Prasad Sinha.

Shri Khushi Ram Sharma.

Shri S. V. Ramaswamy.

Shri C. C. Biswas, and

Shri Kotha Raghuramaiah.

## REPORT OF THE SELECT COMMITTEE

The Select Committee to which the Bill to regulate the profession of notaries was referred, have considered the Bill and I now submit this their report, with the Bill as amended by the Committee annexed thereto.

**Clause 2.**—In order to make the definition of "instrument" in clause 2(b) more comprehensive, the committee think that it will be better to insert the words "modified" and "suspended" therein and have amended clause 2(b) accordingly.

In the definition of "legal practitioner" in clause 2(c), the committee think that agents of the Supreme Court should be specifically included and have also slightly redrafted the clause to make the intention clear.

The committee are of opinion that notaries public who were appointed either under the Negotiable Instruments Act, 1881, or by the Master of Faculties in England should be allowed to practise for at least two years instead of one year without being appointed as notaries under this Act. The proviso to clause 2(d) has been modified accordingly.

**Clause 3.**—The committee are of opinion that it is not desirable to discriminate among notaries and to appoint some notaries to perform only a limited class of functions and not all the functions mentioned in clause 8. The words "on such conditions, if any, as it thinks fit", have been omitted accordingly.

The committee further hold that the qualifications which a notary should possess should be prescribed by rules. The clause has been amended accordingly.

**Clause 5.**—The committee consider that it shall not be necessary for a person who has been appointed a notary under this Act to file an application to have his name entered in the register. The clause has been amended accordingly.

The committee recommend that persons who were appointed as notaries public on payment of fees should not be made liable to pay the prescribed fees under this clause and exemption should be granted to them under clause 15(2)(c).

**Clause 8.**—The committee consider that it should be specifically stated that notaries may demand better security and clause 8(1)(b) has been amended accordingly.

As notaries cannot be appointed under clause 8 to perform only a limited class of functions, the proviso to clause 8(1) is unnecessary and has been omitted.

**Clause 9.**—The proviso to clause 9(1) has been re-drafted to make the intention clear.

The amendment made to clause 9(2) is only a consequential one.

**New clause 13.**—The committee consider that protection should be given to notaries in respect of cognizance of offences. They think that such protection should be given only to notaries who commit an offence acting or purporting to act in the discharge of their functions under this Act. This clause has been inserted to achieve this object.

**Clause 15 (original clause 14).**—The committee consider that the qualifications which a person should possess for being appointed as a notary should be prescribed by rules and have amended clause 15(2)(a) accordingly.

Clause 15(2)(c) has been amended to make the intention clear that exemption from payment of fees may be either partial or full.

**Clause 16 (original clause 15).**—The definition of "notary" in the Negotiable Instruments Act has become superfluous as the power to appoint notaries under that Act has been taken away. The definition of "notary" in section 3 of that Act has, therefore, been omitted and this clause has been amended accordingly.

2. The Bill was published in Part II—Section 2 of the Gazette of India, dated the 24th May, 1952.

3. The committee think that the Bill has not been so altered as to require circulation under Rule 94(4) of the Rules of Procedure and Conduct of Business in the House of the People and they recommend that it be passed as now amended.

NEW DELHI;

H. V. PATASKAR.

18th July, 1952.

Chairman of the Select Committee.

(AS AMENDED BY THE SELECT COMMITTEE)

(Words *sidelined or underlined* indicate the amendments suggested by the Committee; *asterisks* indicate omissions)

BILL No. 38 OF 1952

*A Bill to regulate the profession of notaries.*

BE it enacted by Parliament as follows:—

**1. Short title, extent and commencement.** (1) This Act may be called the Notaries Act, 1952.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

**2. Definitions.**—In this Act, unless the context otherwise requires,—

(a) "India" means the territories to which this Act extends;

(b) "instrument" includes every document by which any right or liability is, or purports to be, created, transferred, modified, limited, extended, suspended, extinguished or recorded;

(c) "legal practitioner" means any advocate or agent of the Supreme Court or any advocate, vakil or attorney of \* \* \* any High Court or any pleader authorised under any law for the time being in force to practise in any court of law;

(d) "notary" means a person appointed as such under this Act:

Provided that for a period of two years from the commencement of this Act it shall include also a person who, before such commencement, was appointed a notary public either under the Negotiable Instruments

Act, 1881 (XXVI of 1881), or by the Master of Faculties in England, and is, immediately before such commencement, in practice in any part of India;

(e) "prescribed" means prescribed by rules made under this Act;

(f) "Register" means a Register of Notaries maintained by the Government under section 4,

(g) "State Government", in relation to a Part C State, means the Lieutenant Governor, or, as the case may be, the Chief Commissioner.

**3. Power to appoint notaries.**—The Central Government, for the whole or any part of India, and any State Government, for the whole or any part of the State, may \* \* \* appoint as notaries any legal practitioners or other persons who possess such qualifications as may be prescribed.

**4. Registers.**—(1) The Central Government and every State Government shall maintain, in such form as may be prescribed, a Register of the notaries appointed by that Government and entitled to practise as such under this Act.

(2) Every such Register shall include the following particulars about the notary whose name is entered therein, namely:—

(a) his full name, date of birth, residential and professional address;

(b) the date on which his name is entered in the Register;

(c) his qualifications; and

(d) any other particulars which may be prescribed.

**5. Entry of names in the Register and issue or renewal of certificates of practice.**—(1) Every notary who intends to practise as such shall, on \* \* \* payment to the Government appointing him of the prescribed fee, if any, be entitled—

(a) to have his name entered in the Register maintained by that Government under section 4, and

(b) to a certificate authorising him to practise for a period of three years from the date on which the certificate is issued to him.

(2) Every such notary who wishes to continue to practise after the expiry of the period for which his certificate of practice has been issued under this section shall, on application made to the Government appointing him and payment of the prescribed fee, if any, be entitled to have his certificate of practice renewed for three years at a time.

**6. Annual publication of lists of notaries.**—The Central Government and every State Government shall, during the month of January each year, publish in the Official Gazette a list of notaries appointed by that Government and in practice at the beginning of that year together with such details pertaining to them as may be prescribed.

**7. Seal of notaries.**—Every notary shall have and use, as occasion may arise, a seal of such form and design as may be prescribed.

**8. Functions of notaries.**—(1) A notary may do all or any of the following acts by virtue of his office, namely:—

(a) verify, authenticate, certify or attest the execution of any instrument;



(b) present any promissory note, hundi or bill of exchange for acceptance or payment or demand better security;

(c) note or protest the dishonour by non-acceptance or non-payment of any promissory note, hundi or bill of exchange or protest for better security or prepare acts of honour under the Negotiable Instruments Act, 1881 (XXVI of 1881), or serve notice of such note or protest;

(d) note and draw up ship's protest, boat's protest or protest relating to demurrage and other commercial matters;

(e) administer oath to, or take affidavit from, any person;

(f) prepare bottomry and respondentia bonds, charter parties and other mercantile documents;

(g) prepare, attest or authenticate any instrument intended to take effect in any country or place outside India in such form and language as may conform to the law of the place where such deed is intended to operate;

(h) translate, and verify the translation of, any document from one language into another;

(i) any other act which may be prescribed.

\* \* \* \* \*

(2) No act specified in sub-section (1) shall be deemed to be a notarial act except when it is done by a notary under his signature and official seal.

**9. Bar of practice without certificate.**—(1) Subject to the provisions of this section, no person shall practise as a notary or do any notarial act under the official seal of a notary unless he holds a certificate of practice in force issued to him under section 5:

Provided that nothing in this sub-section shall apply to the presentation of any promissory note, hundi or bill of exchange for acceptance or payment by the clerk of a notary acting on behalf of such notary.

(2) Nothing contained in sub-section (1) shall, until the expiry of two years from the commencement of this Act, apply to any such person as is referred to in the proviso to clause (d) of section 2.

**10. Removal of names from Register.**—The Government appointing any notary may, by order, remove from the Register maintained by it under section 4 the name of the notary if he—

(a) makes a request to that effect; or

(b) has not paid any prescribed fee required to be paid by him; or

(c) is an undischarged insolvent; or

(d) has been found, upon inquiry in the prescribed manner, to be guilty of such professional or other misconduct as, in the opinion of the Government, renders him unfit to practise as a notary.

**11. Construction of references to notaries public in other laws.**—Any reference to a notary public in any other law shall be construed as a reference to a notary entitled to practise under this Act.

**12. Penalty for falsely representing to be a notary, etc.**—Any person who—

(a) falsely represents that he is a notary without being appointed as such, or

(b) practises as a notary or does any notarial act in contravention of section 9,

shall be punishable with imprisonment for a term which may extend to three months, or with fine, or with both.

**13. Cognizance of offence.**—(1) No court shall take cognizance of any offence committed by a notary in the exercise or purported exercise of his functions under this Act save upon complaint in writing made by an officer authorised by the Central Government or a State Government by general or special order in this behalf.

(2) No magistrate other than a presidency magistrate or a magistrate of the first class shall try an offence punishable under this Act.

**14. Reciprocal arrangements for recognition of notarial acts done by foreign notaries.**—If the Central Government is satisfied that by the law or practice of any country or place outside India, the notarial acts done by notaries within India are recognised for all or any limited purposes in that country or place, the Central Government may, by notification in the Official Gazette, declare that the notarial acts lawfully done by notaries within such country or place shall be recognised within India for all purposes or, as the case may be, for such limited purposes as may be specified in the notification.

**15. Power to make rules.**—(1) The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the qualifications of a notary, the form and manner in which applications for appointment as a notary may be made and the disposal of such applications;

(b) the certificates, testimonials or proofs as to character, integrity, ability and competence which any person applying for appointment as a notary may be required to furnish;

(c) the fees payable for appointment as a notary and for the issue and renewal of a certificate of practice, and exemption, whether wholly or in part, from such fees in specified classes of cases;

(d) the fees payable to a notary for doing any notarial act;

(e) the form of Registers and the particulars to be entered therein;

(f) the form and design of the seal of a notary;

(g) the manner in which inquiries into allegations of professional or other misconduct of notaries may be made;

(h) the acts which a notary may do in addition to those specified in section 8 and the manner in which a notary may perform his functions;

(i) any other matter which has to be, or may be, prescribed.

**16. Amendment of Act XXVI of 1881.**—In the Negotiable Instruments Act, 1881,—

- (i) in section 3, the definition of “notary public” shall be omitted;
- (ii) Chapter XVII shall be omitted.

The following Report of the Select Committee on the Bill to provide for the appointment of Commissions of Inquiry and for vesting such Commissions with certain powers, was presented to House of the People on 25th July, 1952:—

**MEMBERS OF THE SELECT COMMITTEE.**

Dr. Kailas Nath Katju—*Chairman*.  
 Shri N. Somana.  
 Shri Nandlal Joshi.  
 Pandit Mukut Bihari Lal Bhargava.  
 Shri H. C. Heda.  
 Shri Shankargauda Veerangauda Patil.  
 Shri Narendra P. Nathwani.  
 Shri K. G. Deshmukh.  
 Shri Jagannath Kolay.  
 Shri Kamakhya Prasad Tripathi.  
 Shri Tek Chand.  
 Shri Pannalal R. Kaushik.  
 Shri M. L. Dwivedi.  
 Shri Tribhuan Narayan Singh.  
 Shri Banarsi Prasad Jhunjhunwala.  
 Shri Shiva Datt Upadhyaya.  
 Shri Rayasam Seshagiri Rao.  
 Dr. N. M. Jaisooria.  
 Shri P. T. Punnoose.  
 Shri Umashankar Muljibhai Trivedi.  
 Shri Hukam Singh.  
 Shri K. S. Raghavachari.  
 Shri Frank Anthony.  
 Shri G. D. Somani.  
 Shri Bhawani Singh.  
 Shri Tulsidas Kilachand.  
 H. H. Maharaja Rajendra Narayan Singh Deo.  
 Shri B. Shiva Rao.  
 Shri Tekur Subrahmanyam.  
 Dr. Panjabrao S. Deshmukh.

**REPORT OF THE SELECT COMMITTEE**

The Select Committee to which the Bill to provide for the appointment of Commissions of Inquiry and for vesting such Commissions with certain powers was referred to, have considered the

Bill and I now submit this their Report, with the Bill as amended by the Committee annexed thereto.

Upon the changes proposed, which are not formal or consequential, it may be noted as follows:—

*Clause 3.*—The Committee think that a time limit within which a Commission should complete its inquiry and submit its report should be specified in the notification appointing the Commission.

Clause 3(1) has been amended accordingly.

Under the existing proviso to clause 3(1), it is not competent for any State Government, except with the approval of the Central Government, to appoint a State Commission to inquire into any matter which is being already inquired into by a Central Commission for so long as that Central Commission is functioning and for two years thereafter. The Committee consider that the restriction imposed on a State Government to appoint a Commission for two years even after the Central Commission has ceased to function is unnecessary and should be omitted. They are further of opinion that there should also be a prohibition on the Central Government to appoint a Central Commission when a State Commission is functioning, unless the Central Government is of opinion that the scope of the inquiry should be extended to two or more States. The proviso to clause 3(1) has been re-drafted to achieve this object.

*Clause 4.*—The Committee think that the Commission should also be empowered to requisition copies of public records. Clause 4(1)(d) has been amended accordingly.

*New Clause 5* [original clauses 4(2), 4(3) and 4(4)].—The Committee are of opinion that it is not necessary to vest in all the Commissions appointed under section 3 all the powers referred to in sub-clauses (2) to (4) of clause 4. If, however, the appropriate Government is satisfied, having regard to the nature of the inquiry and other circumstances of the case, that such powers should be vested in any particular Commission, the appropriate Government may, by notification, vest such powers in that particular Commission. Clause 5(1) has been inserted for the aforesaid purpose.

In clause 5(3), the Committee think that no officer below the rank of a gazetted officer should be authorised by the Commission to have the powers of search and seizure. Clause 5(3) has been amended accordingly.

The Committee consider that sub-clauses (5) and (6) of clause 4 should be inserted as separate clauses. They have been inserted as new clauses 8 and 10.

Subsequent clauses have been re-numbered.

*New Clause 8.*—This clause reproduces the provisions of the original clause 4(5).

*New Clause 9.*—The Committee consider that protection should be given to the Government and the Commission and every member or officer of the Commission in respect of action taken in good faith. This clause has been inserted to achieve this object.

*New Clause 10.*—This clause reproduces the provisions of the original clause 4(6).

*Re-numbered Clause 11.*—The Committee consider that even under this clause, the appropriate Government should specify in the notification whether all or only some of the provisions of this Act should apply to a particular inquiring authority. This clause has also been slightly re-drafted to make the intention clear.

2. The Bill was published in the *Gazette of India*, Part II, Section 2, dated the 7th June, 1952.

3. The Committee think that the Bill has not been so altered as to require circulation under Rule 94(4) of the Rules of Procedure and Conduct of Business in the House of the People and they recommend that it be now passed as amended.

NEW DELHI;  
The 25th July, 1952.

KAILAS NATH KATJU,  
*Chairman of the Select Committee.*

### MINUTE OF DISSENT

I am in general agreement with the report except in the particular mentioned below.

The power similar to those contemplated in clause 5(3) of this Bill may be necessary only to prevent evasion of taxation. This Bill is not expected to cover such cases. So clause 5(3) may be omitted as it is unnecessary.

NEW DELHI;  
The 25th July, 1952.

K. S. RAGHAVACHARI.

### (AS AMENDED BY THE SELECT COMMITTEE)

(Words *sidelined* or *underlined* indicate the amendments suggested by the Committee; asterisks indicate omissions.)

BILL NO. 39 OF 1952

*A Bill to provide for the appointment of Commissions of Inquiry and for vesting such Commissions with certain powers.*

BE it enacted by Parliament as follows:—

**1. Short title, extent and commencement.**—(1) This Act may be called the Commissions of Inquiry Act, 1952.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

**2. Definitions.**—In this Act, unless the context otherwise requires,—

(a) “appropriate Government” means—

(i) the Central Government, in relation to a Commission appointed by it to make an inquiry into any matter relating to any of the entries enumerated in List I or List II or List III in the Seventh Schedule to the Constitution; and

(ii) the State Government, in relation to a Commission appointed by it to make an inquiry into any matter relating to any of the entries enumerated in List II or List III in the Seventh Schedule to the Constitution;

(b) "Commission" means a Commission of Inquiry appointed under section 3;

(c) "prescribed" means prescribed by rules made under this Act.

**3. Appointment of Commission.**—(1) The appropriate Government may, if it is of opinion that it is necessary so to do, and shall, if a resolution in this behalf is passed by the House of the People or, as the case may be, the Legislative Assembly of the State, by notification in the Official Gazette, appoint a Commission of Inquiry for the purpose of making an inquiry into any definite matter of public importance and performing such functions and within such time as may be specified in the notification, and the Commission so appointed shall make the inquiry and perform the functions accordingly:

Provided that where any such Commission has been appointed to inquire into any matter—

(a) by the Central Government, no State Government shall, except with the approval of the Central Government, appoint another Commission to inquire into the same matter for so long as the Commission appointed by the Central Government is functioning;

(b) by a State Government, the Central Government shall not appoint another Commission to inquire into the same matter for so long as the Commission appointed by the State Government is functioning, unless the Central Government is of opinion that the scope of the inquiry should be extended to two or more States.

(2) The Commission may consist of one or more members appointed by the appropriate Government, and where the Commission consists of more than one member, one of them may be appointed as the Chairman thereof.

**4. Powers of Commission.**—\*The Commission shall have the powers of a civil court, while trying a suit under the Code of Civil Procedure, 1908 (Act V of 1908), in respect of the following matters, namely:—

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of any document;

(c) receiving evidence on affidavits;

(d) requisitioning any public record or copy thereof from any court or office;

(e) issuing commissions for the examination of witnesses or documents;

(f) any other matter which may be prescribed.

**5. Additional Powers of Commission.**—(1) Where the appropriate Government is of opinion that, having regard to the nature of the inquiry to be made and other circumstances of the case, all or any of the provisions of sub-section (2) or sub-section (3) or sub-section (4) should be made applicable to a Commission, the appropriate Government may, by notification in the Official Gazette, direct that all or such of the said provisions as may be specified in the notification shall apply to that Commission and on the issue of such a notification, the said provisions shall apply accordingly.

(2) The Commission shall have power to require any person, subject to any privilege which may be claimed by that person under any law for the time being in force, to furnish information on such points or matters as, in the opinion of the Commission, may be useful for, or relevant to, the subject matter of the inquiry.

(3) The Commission or any officer, not below the rank of a gazetted officer, specially authorised in this behalf by the Commission may enter any building or place where the Commission has reason to believe that any books of account or other documents relating to the subject matter of the inquiry may be found, and may seize any such books of account or documents or take extracts or copies therefrom, subject to the provisions of section 102 and section 103 of the Code of Criminal Procedure, 1898 (Act V of 1898) in so far as they may be applicable.

(4) The Commission shall be deemed to be a civil court for the purposes of sections 480 and 482 of the Code of Criminal Procedure, 1898 (Act V of 1898) and any proceeding before the Commission shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code (Act XLV of 1860).

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**6. Statements made by persons to the Commission.**—No statement made by a person in the course of giving evidence before the Commission shall subject him to, or be used against him in, any civil or criminal proceeding except a prosecution for giving false evidence by such statement:

Provided that the statement—

(a) is made in reply to a question which he is required by the Commission to answer, or

(b) is relevant to the subject matter of the inquiry.

**7. Commission to cease to exist when so notified.**—The appropriate Government may, if it is of opinion that the continued existence of a Commission is unnecessary, by notification in the Official Gazette, declare that the Commission shall cease to exist from such date as may be specified in this behalf in such notification, and thereupon, the Commission shall cease to exist.

**8. Procedure to be followed by the Commission.**—The Commission shall, subject to any rules that may be made in this behalf, have power to regulate its own procedure (including the fixing of places

and times of its sittings and deciding whether to sit in public or in private) and may act notwithstanding the temporary absence of any member or the existence of a vacancy among its members.

**9. Protection of action taken in good faith.**—No suit or other legal proceeding shall lie against the appropriate Government, the Commission or any member thereof, or any person acting under the direction either of the appropriate Government or of the Commission in respect of anything which is in good faith done or intended to be done in pursuance of this Act or of any rules or orders made thereunder or in respect of the publication, by or under the authority of the appropriate Government or the Commission, of any report, paper or proceedings.

**10. Members, etc. to be public servants.**—Every member of the Commission and every officer appointed or authorised by the Commission to exercise functions under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (Act XLV of 1860).

**11. Act to apply to other inquiring authorities in certain cases.**—Where any authority (by whatever name called), other than a Commission appointed under section 3, has been or is set up under any resolution or order of the appropriate Government for the purpose of making an inquiry into any definite matter of public importance and that Government is of opinion that all or any of the provisions of this Act should be made applicable to that authority, that Government may, subject to the prohibition contained in the proviso to sub-section (1) of section 3, by notification in the Official Gazette, direct that the said provisions of this Act shall apply to that authority, and on the issue of such a notification, that authority shall be deemed to be a Commission \* \* \* appointed under section 3 for \* the purposes of this Act.

**12. Power to make rules.**—(1) The appropriate Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the term of office and the conditions of service of the members of the Commission;

(b) the manner in which inquiries may be held under this Act and the procedure to be followed by the Commission in respect of the proceedings before it;

(c) the powers of civil court which may be vested in the Commission;

(d) any other matter which has to be, or may be, prescribed.



The following Bill was introduced in the House of the People on 28th July, 1952:—

**BILL\* No. 89 OF 1952.**

*A Bill to provide for the salaries and allowances of Ministers.*

BE it enacted by Parliament as follows :—

**1. Short title.**—This Act may be called the Salaries and Allowances of Ministers Act, 1952.

**2. Definition.**—In this Act, "Minister" means a member of the Council of Ministers, by whatever name called, and includes a Deputy Minister.

**3. Salaries of Ministers.**—There shall be paid to each Minister, other than a Deputy Minister, a salary of two thousand two hundred and fifty rupees *per mensem*, and to each Deputy Minister a salary of one thousand seven hundred and fifty rupees *per mensem*.

**4. Residence of Ministers.**—Each Minister shall be entitled without payment of rent to the use of a fully furnished residence throughout his term of office and for a period of fifteen days immediately thereafter, and no charge shall fall on the Minister personally in respect of the maintenance of such residence.

*Explanation.*—For the purposes of this section, "residence" includes the staff quarters and other buildings appurtenant thereto, and the garden thereof, and "maintenance" in relation to a residence includes the payment of local rates and taxes and the provision of electricity and water.

**5. Sumptuary allowance to Ministers.**—The Central Government may, by rules made in this behalf, provide for the grant of a sumptuary allowance not exceeding five hundred rupees *per mensem* to any Minister other than a Deputy Minister, and such rules may provide for the grant of the allowance to different Ministers at different rates.

**6. Travelling and daily allowances to Ministers.**—(1) Subject to any rules made in this behalf by the Central Government, a Minister shall be entitled to—

(a) travelling allowances for himself and the members of his family and for the transport of his and his family's effects—

(i) in respect of the journey to Delhi from his usual place of residence outside Delhi for assuming office, and

(ii) in respect of the journey from Delhi to his usual place of residence outside Delhi on relinquishing office; and

(b) travelling and daily allowances in respect of tours undertaken by him in the discharge of his official duties, whether by sea, land or air.

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\*The President has, in pursuance of clause (3) of article 117 of the Constitution of India, recommended to the House of the People the consideration of the Bill.

(2) Any travelling allowance under this section may be paid in cash or free official transport provided in lieu thereof.

**7. Medical treatment, etc., to Ministers.**—Subject to any rules made in this behalf by the Central Government, a Minister and the members of his family shall be entitled free of charge to accommodation in hospitals maintained by the Government and also to medical treatment.

**8. Advances to Ministers for purchase of motor-cars.**—There may be paid to any Minister by way of a repayable advance such sum of money as may be determined by rules made in this behalf for the purchase of a motor-car in order that he may be able to discharge conveniently and efficiently the duties of his office.

**9. Ministers not to draw salary or allowances as Members of Parliament.**—No person in receipt of a salary or allowance under this Act shall be entitled to receive any sum out of funds provided by Parliament by way of salary or allowance in respect of his membership of either House of Parliament.

**10. Notification respecting appointment, etc., of Ministers to be conclusive evidence thereof.**—The date on which any person became or ceased to be a Minister shall be published in the Official Gazette, and any such notification shall be conclusive evidence of the fact that he became, or ceased to be, a Minister on that date for all the purposes of this Act.

**11. Power to make rules.**—(1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) All rules made under this Act shall be laid before both Houses of Parliament as soon as may be after they are made.

**12. Regularisation of certain payments.**—All salaries paid or payable for the period commencing on the 14th day of May, 1952, and ending with the commencement of this Act to Ministers described as Ministers of Cabinet rank (but not Members of the Cabinet), all charges incurred before the commencement of this Act in respect of the accommodation provided in any hospital maintained by the Central Government for or on the medical treatment of any Minister or any member of his family and all payments made before such commencement by way of travelling or daily allowances to any Deputy Minister, shall be deemed to have been properly paid, payable or incurred or made.

**13. Repeal of Act LIII of 1947.**—The Salaries of Ministers Act, 1947, is hereby repealed.

#### STATEMENT OF OBJECTS AND REASONS

Ministers of Government have subjected themselves since November 1949 to a voluntary cut in their salary fixed by the Salaries of Ministers Act, 1947, as amended by the Salaries of Ministers (Amendment) Act, 1950. It has been decided that the salaries should now be statutorily reduced. In addition to their salaries Ministers have, by the issue of executive

instructions, been given certain privileges, such as free medical attendance and advances for the purchase of motor cars. It is considered necessary that such privileges should be formally laid down by Statute instead of being regulated by Executive Orders. The Bill seeks to achieve these purposes.

KAILAS NATH KATJU

NEW DELHI;

*The 28rd July, 1952.*

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M. N. KAUL.

*Secretary.*

